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NEW ACT 256

TO CLASSIFY CERTAIN PRECURSOR INGREDIENTS UTILIZED TO MANUFACTURE METHAMPHETAMINE AS SCHEDULE V CONTROLLED SUBSTANCES

REVIEW OF NEW LAW AND THE EFFECT ON LIST 1 CHEMICAL WHOLESALEERS

Act 256 was signed into law February 22, 2005 to control the distribution of certain precursor ingredients utilized to manufacture methamphetamine. This Act makes ephedrine combination products, pseudoephedrine (PSE), and phenylpropanolamine Schedule V Controlled Substances; however, certain forms of ephedrine and pseudoephedrine are exempted from the Class V schedule. Act 256 will become effective on March 24, 2005 and the comments below are applicable on and after March 24. These comments are merely a summary of the pertinent portions of Act 256, and you should study the entire act, which is available at:

<http://www.arkleg.state.ar.us/ftp/acts/2005/public/act256.pdf>

These Schedule V Controlled Substances can only be sold to the public by a pharmacist or pharmacy technician in a licensed pharmacy in restricted quantities.

EFFECT ON LIST 1 CHEMICAL WHOLESALEERS:

1. All ephedrine, pseudoephedrine, and phenylpropanolamine containing products that are not exempted by Act 256 are now Schedule V Controlled Substances. These Class V substances **CANNOT** be **possessed, sold or distributed** under an Arkansas Wholesaler of List 1 Chemicals license.

*Note: All single entity ephedrine products became Schedule V in October 1995.

2. The Schedule V classification shall **NOT** apply to any ephedrine or pseudoephedrine in liquid, liquid capsule, or liquid gel capsules form if the drug is dispensed, sold, transferred, or otherwise furnished in a single

transaction limited to no more than three packages, with any single package containing not more than ninety-six liquid capsules or liquid gel capsules or not more than three grams of ephedrine or pseudoephedrine base. These non-Class V forms of the product can be possessed, sold or distributed under an Arkansas List 1 Chemical Wholesaler license. Retail sales are limited to quantities specified in the Act for personal use. Furthermore, the provisions for reporting suspicious transactions involving the unscheduled chemicals remain in the law.

It should be noted that the Arkansas Department of Health has the authority to exempt from the Class V schedule other products that cannot be converted into methamphetamine and also can schedule as Class V substances a product in liquid, liquid capsule or liquid gel form if it is determined that the active ingredient can be converted into methamphetamine or its salts or isomers.

3. Possession with intent to deliver or delivery of a controlled substance including Class V substances, except as authorized by the Controlled Substances Act, is a felony. Ark. Code Ann. § 5-64-401. A List I chemical license does not authorize the possession or delivery of Class V controlled substances. To be a wholesaler of Class V controlled substances, it is necessary to obtain a separate license under Ark. Code Ann. § 20-64-501 et seq. for prescription drugs. Consequently, upon the effective date of Act 256, List I chemical wholesalers and their retailers are not authorized to possess or sell ephedrine, pseudoephedrine or phenylpropanolamine that are scheduled as Class V controlled substances and would be subject to criminal prosecution for violation of Ark. Code Ann. § 5-64-401.

If you have any questions regarding products that are exempt, you may contact the Arkansas Department of Health, Pharmacy Services Division at 501-661-2325 or the Arkansas State Board of Pharmacy at 501-682-0190.

List 1 Chemical wholesalers are encouraged to contact their customers to ensure they are not in possession of Schedule V substances as of March 24, 2005. As of March 24, 2005 they will be subject to criminal prosecution for possessing these substances.

If you have any further questions about this law, please contact the Board office,

Sincerely,

John Clay Kirtley, Pharm.D.
Assistant Director

P.S. Please refer to the Arkansas State Board of Pharmacy website, www.arkansas.gov/asbp for future information regarding ACT 256 under the heading Announcements.